

ASSEMBLY BILL

No. 877

Introduced by Assembly Member Huff

February 18, 2005

An act to amend Section 22651 of the Vehicle Code, relating to vehicles. .

LEGISLATIVE COUNSEL'S DIGEST

AB 877, as introduced, Huff. Vehicles: removal.

(1) Existing law authorizes a peace officer, as defined, or a regularly employed and salaried public employee, who is engaged in directing traffic or enforcing parking laws and regulations, to remove a vehicle located within the territorial limits in which the officer or employee is allowed to act under specified and enumerated circumstances.

This bill would additionally allow for the removal of a vehicle upon the issuance of a notice of reexamination to a driver. The bill would provide for the release of that vehicle to specified persons, but would prohibit the relinquishment of the vehicle to the person named on the notice of reexamination unless the Department of Motor Vehicles has determined that the person is qualified to operate the motor vehicle and has provided the department's written confirmation to that affect. This bill would prohibit the imposition of an administrative charge on a person who is authorized to obtain the release of a vehicle under this bill. Because under existing law a violation of the Vehicle Code is a crime, this bill would impose a state-mandated local program by creating a new crime.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.

Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 22651 of the Vehicle Code is amended
2 to read:

3 22651. ~~Any~~ A peace officer, as defined in Chapter 4.5
4 (commencing with Section 830) of Title 3 of Part 2 of the Penal
5 Code, or any regularly employed and salaried employee, who is
6 engaged in directing traffic or enforcing parking laws and
7 regulations, of a city, county, or jurisdiction of a state agency in
8 which a vehicle is located, may remove a vehicle located within
9 the territorial limits in which the officer or employee may act,
10 under any of the following circumstances:

11 (a) When ~~any~~ a vehicle is left unattended upon any bridge,
12 viaduct, or causeway or in any tube or tunnel where the vehicle
13 constitutes an obstruction to traffic.

14 (b) When ~~any~~ a vehicle is parked or left standing upon a
15 highway in a position so as to obstruct the normal movement of
16 traffic or in a condition so as to create a hazard to other traffic
17 upon the highway.

18 (c) When ~~any~~ a vehicle is found upon a highway or any public
19 lands and a report has previously been made that the vehicle has
20 been stolen or a complaint has been filed and a warrant thereon
21 issued charging that the vehicle has been embezzled.

22 (d) When ~~any~~ a vehicle is illegally parked so as to block the
23 entrance to a private driveway and it is impractical to move the
24 vehicle from in front of the driveway to another point on the
25 highway.

26 (e) When ~~any~~ a vehicle is illegally parked so as to prevent
27 access by firefighting equipment to a fire hydrant and it is
28 impracticable to move the vehicle from in front of the fire
29 hydrant to another point on the highway.

30 (f) When ~~any~~ a vehicle, except any highway maintenance or
31 construction equipment, is stopped, parked, or left standing for

1 more than four hours upon the right-of-way of any freeway
2 which has full control of access and no crossings at grade and the
3 driver, if present, cannot move the vehicle under its own power.

4 (g) When the person or persons in charge of a vehicle upon a
5 highway or any public lands are, by reason of physical injuries or
6 illness, incapacitated to an extent so as to be unable to provide
7 for its custody or removal.

8 (h) (1) When an officer arrests any person driving or in
9 control of a vehicle for an alleged offense and the officer is, by
10 this code or other law, required or permitted to take, and does
11 take, the person into custody.

12 (2) When an officer serves a notice of an order of suspension
13 or revocation pursuant to Section 13388.

14 (i) (1) When ~~any~~ a vehicle, other than a rented vehicle, is
15 found upon a highway or any public lands, or is removed
16 pursuant to this code, and it is known that the vehicle has been
17 issued five or more notices of parking violations to which the
18 owner or person in control of the vehicle has not responded
19 within 21 calendar days of notice of citation issuance or citation
20 issuance or 14 calendar days of the mailing of a notice of
21 delinquent parking violation to the agency responsible for
22 processing notices of parking violation or the registered owner of
23 the vehicle is known to have been issued five or more notices for
24 failure to pay or failure to appear in court for traffic violations for
25 which no certificate has been issued by the magistrate or clerk of
26 the court hearing the case showing that the case has been
27 adjudicated or concerning which the registered owner's record
28 has not been cleared pursuant to Chapter 6 (commencing with
29 Section 41500) of Division 17, the vehicle may be impounded
30 until that person furnishes to the impounding law enforcement
31 agency all of the following:

32 (A) Evidence of his or her identity.

33 (B) An address within this state at which he or she can be
34 located.

35 (C) Satisfactory evidence that all parking penalties due for the
36 vehicle and any other vehicle registered to the registered owner
37 of the impounded vehicle, and all traffic violations of the
38 registered owner, have been cleared.

39 (2) The requirements in subparagraph (C) of paragraph (1)
40 shall be fully enforced by the impounding law enforcement

1 agency on and after the time that the Department of Motor
2 Vehicles is able to provide access to the necessary records.

3 (3) A notice of parking violation issued for an unlawfully
4 parked vehicle shall be accompanied by a warning that repeated
5 violations may result in the impounding of the vehicle. In lieu of
6 furnishing satisfactory evidence that the full amount of parking
7 penalties or bail has been deposited, that person may demand to
8 be taken without unnecessary delay before a magistrate, for
9 traffic offenses, or a hearing examiner, for parking offenses,
10 within the county in which the offenses charged are alleged to
11 have been committed and who has jurisdiction of the offenses
12 and is nearest or most accessible with reference to the place
13 where the vehicle is impounded. Evidence of current registration
14 shall be produced after a vehicle has been impounded, or, at the
15 discretion of the impounding law enforcement agency, a notice to
16 appear for violation of subdivision (a) of Section 4000 shall be
17 issued to that person.

18 (4) A vehicle shall be released to the legal owner, as defined in
19 Section 370, if the legal owner does all of the following:

20 (A) Pays the cost of towing and storing the vehicle.

21 (B) Submits evidence of payment of fees as provided in
22 Section 9561.

23 (C) Completes an affidavit in a form acceptable to the
24 impounding law enforcement agency stating that the vehicle was
25 not in possession of the legal owner at the time of occurrence of
26 the offenses relating to standing or parking. A vehicle released to
27 a legal owner under this subdivision is a repossessed vehicle for
28 purposes of disposition or sale. The impounding agency shall
29 have a lien on any surplus that remains upon sale of the vehicle
30 to which the registered owner is or may be entitled, as security
31 for the full amount of the parking penalties for all notices of
32 parking violations issued for the vehicle and for any local
33 administrative charges imposed pursuant to Section 22850.5. The
34 legal owner shall promptly remit to, and deposit with, the agency
35 responsible for processing notices of parking violations from that
36 surplus, on receipt thereof, full amount of the parking penalties
37 for all notices of parking violations issued for the vehicle and for
38 any local administrative charges imposed pursuant to Section
39 22850.5.

1 (5) The impounding agency that has a lien on the surplus that
2 remains upon the sale of a vehicle to which a registered owner is
3 entitled pursuant to paragraph (4) has a deficiency claim against
4 the registered owner for the full amount of the parking penalties
5 for all notices of parking violations issued for the vehicle and for
6 any local administrative charges imposed pursuant to Section
7 22850.5, less the amount received from the sale of the vehicle.

8 (j) When ~~any~~ a vehicle is found illegally parked and there are
9 no license plates or other evidence of registration displayed, the
10 vehicle may be impounded until the owner or person in control of
11 the vehicle furnishes the impounding law enforcement agency
12 evidence of his or her identity and an address within this state at
13 which he or she can be located.

14 (k) When ~~any~~ a vehicle is parked or left standing upon a
15 highway for 72 or more consecutive hours in violation of a local
16 ordinance authorizing removal.

17 (l) When ~~any~~ a vehicle is illegally parked on a highway in
18 violation of ~~any~~ a local ordinance forbidding standing or parking
19 and the use of a highway, or a portion thereof, is necessary for
20 the cleaning, repair, or construction of the highway, or for the
21 installation of underground utilities, and signs giving notice that
22 the vehicle may be removed are erected or placed at least 24
23 hours prior to the removal by local authorities pursuant to the
24 ordinance.

25 (m) Wherever the use of the highway, or ~~any~~ a portion thereof,
26 is authorized by local authorities for a purpose other than the
27 normal flow of traffic or for the movement of equipment,
28 articles, or structures of unusual size, and the parking of ~~any~~ a
29 vehicle would prohibit or interfere with that use or movement,
30 and signs giving notice that the vehicle may be removed are
31 erected or placed at least 24 hours prior to the removal by local
32 authorities pursuant to the ordinance.

33 (n) Whenever ~~any~~ a vehicle is parked or left standing where
34 local authorities, by resolution or ordinance, have prohibited
35 parking and have authorized the removal of vehicles. No vehicle
36 may be removed unless signs are posted giving notice of the
37 removal.

38 (o) (1) When ~~any~~ a vehicle is found or operated upon a
39 highway, any public lands, or an offstreet parking facility with a
40 registration expiration date in excess of six months before the

1 date it is found or operated on the highway, public lands, or the
2 offstreet parking facility. However, whenever the vehicle is
3 occupied, only a peace officer, as defined in Chapter 4.5
4 (commencing with Section 830) of Title 3 of Part 2 of the Penal
5 Code, may remove the vehicle. For the purposes of this
6 subdivision, the vehicle shall be released to the owner or person
7 in control of the vehicle only after the owner or person furnishes
8 the storing law enforcement agency with proof of current
9 registration and a currently valid driver's license to operate the
10 vehicle.

11 (2) As used in this subdivision, "offstreet parking facility"
12 means any offstreet facility held open for use by the public for
13 parking vehicles and includes ~~any~~ publicly owned facilities for
14 offstreet parking, and privately owned facilities for offstreet
15 parking where no fee is charged for the privilege to park and
16 which are held open for the common public use of retail
17 customers.

18 (p) When the peace officer issues the driver of a vehicle a
19 notice to appear for a violation of Section 12500, 14601,
20 14601.1, 14601.2, 14601.3, 14601.4, 14601.5, or 14604 and the
21 vehicle has not been impounded pursuant to Section 22655.5.
22 ~~Any~~ A vehicle so removed from the highway or any public
23 lands, or from private property after having been on a highway or
24 public lands, shall not be released to the registered owner or his
25 or her agent, except upon presentation of the registered owner's
26 or his or her agent's currently valid driver's license to operate the
27 vehicle and proof of current vehicle registration, or upon order of
28 a court.

29 (q) Whenever ~~any~~ a vehicle is parked for more than 24 hours
30 on a portion of highway which is located within the boundaries
31 of a common interest development, as defined in subdivision (c)
32 of Section 1351 of the Civil Code, and signs, as required by
33 Section 22658.2, have been posted on that portion of highway
34 providing notice to drivers that vehicles parked thereon for more
35 than 24 hours will be removed at the owner's expense, pursuant
36 to a resolution or ordinance adopted by the local authority.

37 (r) When ~~any~~ a vehicle is illegally parked and blocks the
38 movement of a legally parked vehicle.

39 (s) (1) When ~~any~~ a vehicle, except highway maintenance or
40 construction equipment, an authorized emergency vehicle, or a

1 vehicle which is properly permitted or otherwise authorized by
2 the Department of Transportation, is stopped, parked, or left
3 standing for more than eight hours within a roadside rest area or
4 viewpoint.

5 (2) For purposes of this subdivision, a roadside rest area or
6 viewpoint is a publicly maintained vehicle parking area, adjacent
7 to a highway, utilized for the convenient, safe stopping of a
8 vehicle to enable motorists to rest or to view the scenery. If two
9 or more roadside rest areas are located on opposite sides of the
10 highway, or upon the center divider, within seven miles of each
11 other, then that combination of rest areas is considered to be the
12 same rest area.

13 (t) When a peace officer issues a notice to appear for a
14 violation of Section 25279.

15 (u) (1) *When a peace officer issues a notice of reexamination*
16 *to a driver under Section 21061.*

17 (2) *A vehicle removed from a highway or public lands under*
18 *this subdivision shall be released to any of the following:*

19 (A) *The person named on the notice of reexamination upon*
20 *written confirmation from the Department of Motor Vehicles that*
21 *a reexamination of that person's ability to operate a motor*
22 *vehicle has been conducted under Section 12818, and that person*
23 *has successfully demonstrated his or her ability to operate a*
24 *motor vehicle safely as required under Section 12804.9.*

25 (B) *The registered owner or his or her agent, if other than the*
26 *person named on the notice of reexamination.*

27 (C) *The legal owner or his or her agent, if other than the*
28 *person named on the notice of reexamination.*

29 (3) *A registered or legal owner, or his or her agent, that*
30 *obtains release of the vehicle under subparagraph (B) or (C) of*
31 *paragraph (2) may relinquish the vehicle to the person named on*
32 *the notice of reexamination when that person presents to the*
33 *person releasing the vehicle a written confirmation from the*
34 *Department of Motor Vehicles that a reexamination of the*
35 *person's ability to operate a motor vehicle has been conducted*
36 *under Section 12818, and the person has successfully*
37 *demonstrated his or her ability to safely operate a motor vehicle*
38 *as required under Section 12804.9.*

1 (4) *An administrative fee shall not be charged under Section*
2 *22850.5 for the release of a vehicle in accordance with this*
3 *subdivision.*

4 (5) *The Department of Motor Vehicles shall, as appropriate,*
5 *issue a written confirmation as described in paragraphs (2) and*
6 *(3).*

7 (6) *The legislative intent of this subdivision is to ensure public*
8 *safety and not to unnecessarily deprive a person of his or her*
9 *motor vehicle or cause financial hardship.*

10 SEC. 2. No reimbursement is required by this act pursuant to
11 Section 6 of Article XIII B of the California Constitution because
12 the only costs that may be incurred by a local agency or school
13 district will be incurred because this act creates a new crime or
14 infraction, eliminates a crime or infraction, or changes the
15 penalty for a crime or infraction, within the meaning of Section
16 17556 of the Government Code, or changes the definition of a
17 crime within the meaning of Section 6 of Article XIII B of the
18 California Constitution.